

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF DRINKING WATER

TO: Lucky 18 on Rosamond, LLC Water System
Water System No. 1500571

Attn: Danny Doustan
Nahatel, LLC
65 Dianas Trail
Roslyn, NY 11576

CERTIFIED MAIL

**CITATION FOR VIOLATION OF CALIFORNIA CODE OF REGULATIONS,
TITLE 22, SECTION 64426.1(b)(2) – May 2016**

C I T A T I O N N O. 03-19-16C-050

Issued on November 7, 2016

STATEMENT OF FACTS

Lucky 18 Water System (hereinafter Water System) is classified as a community water system and serves a population of approximately 73 persons through 60 service connection. The Water System has two (2) active sources of supply, Well 01 (Primary Station Code: 1500571-001), which has been out of service for some time, due to mechanical breakdown, and Well 02 (Primary Station Code 1500571-002). The Water System has two storage tanks, a 90,000-gallon bolted steel storage tank and a 3,000-gallon storage tank and distribution system. The 3,000-gallon tank (located at Well 01 site) is not in use due to Well 01 being offline. No treatment is currently provided to the water produced by Well 02. The Water System operates under the authority of Permit No. No. 03-12-095P-047, issued on December 19, 1995, by the Kern County

1 Environmental Health Services Department. Effective July 1, 2014, regulatory
2 jurisdiction of the Water System was transferred from the California Department of
3 Public Health to the State Water Resources Control Board (hereinafter "State Board").

4
5 Section 116650 of the California Health and Safety Code authorizes the issuance of a
6 citation to a public water system for violation of the California Safe Drinking Water
7 Act (Health and Safety Code, Division 104, Part 12, Chapter 4, commencing with
8 Section 116270) (hereinafter "California SDWA") or any regulation, standard, permit
9 or order issued or adopted thereunder.

10
11 The State Board, acting by and through its Division of Drinking Water and the Deputy
12 Director for the Division of Drinking Water (hereinafter "Deputy Director"), hereby
13 issues a citation to the Lucky 18 on Rosamond, LLC Water System (mailing address:
14 65 Dianas Trail, Roslyn, New York 11576) for violations of the California Code of
15 Regulations (CCR), Title 22, Section 64426, subsection (b)(2).

- 16
- 17 • The Water System is required to collect one (1) routine bacteriological sample
18 per month.
 - 19 • One (1) routine bacteriological quality sample collected on May 17, 2016, from
20 the distribution system, tested positive for total coliform bacteria.
 - 21 • Two (2) out of four (4) repeat samples collected on May 19, 2016, from the
22 distribution system, also tested positive for total coliform bacteria. One of
23 these total coliform positive samples was collected from the 90,000-gallon
24 storage tank.
 - 25 • One (1) repeat sample (also counted towards the Ground Water Rule's
26 triggered source sampling requirement), collected on May 19, 2016, from Well
27 02, also tested positive for total coliform bacteria.

- 1 • **Lucky 18 Water System failed the total coliform maximum contaminant**
- 2 **level (MCL) for May 2016 [Section 64426.1(b)(2), *Authorities*].**
- 3 • On May 23, 2016, Dan Sackett of sKOO'kum h2o monitoring, inc., the Water
- 4 System's sampler and certified distribution operator, informed the State Board
- 5 by email that the Water System failed the total coliform MCL for the month of
- 6 May 2016.
- 7 • After emergency disinfection and flushing of Well 02 and the distribution
- 8 system, five (5) bacteriological quality samples were collected on May 24,
- 9 2016, from the distribution system, and they all tested negative for total
- 10 coliform bacteria.
- 11 • On May 31, 2016, a blank Level 1 Assessment form for was emailed to the
- 12 water System by the State Board.
- 13 • On June 13, 2016, the State Board received the completed Level 1 Assessment
- 14 from Dan Sackett. A possible cause of the total coliform positive samples was
- 15 stated as loss of pressure in the distribution system due to tripping of the
- 16 electrical controls at the booster pump. This deficiency was later corrected by
- 17 installing a new electrical control panel for the booster pump, by using CAA
- 18 funding from the State Board.
- 19 • Five (5) routine bacteriological samples collected on June 7, 2016, from the
- 20 distribution system, tested negative for total coliform bacteria.
- 21 • Monthly routine samples collected from July to September 2016, tested
- 22 negative for total coliform bacteria.
- 23 • Results of all bacteriological samples collected from January 2015 to
- 24 September 2016, are summarized in **Attachment A.**

AUTHORITIES

Section 116577 of the CHSC, states in relevant part:

"(a) Each public water system shall reimburse the State Board for the actual costs incurred by the State Board for any of the following enforcement activities related to that water system:

- (1) Preparing, issuing, and monitoring compliance with, an order or citation.
- (2) Preparing, and issuing public notification

...

(b) The State Board shall submit an invoice for these enforcement costs to the public water system that requires payment prior to September 1 of the fiscal year following the fiscal year in which the costs were incurred. The invoice shall indicate the total hours expended, the reasons for the expenditure, and the hourly cost rate of the State Board. The costs set forth in the invoice shall not exceed the total actual costs to the State Board of the enforcement activities specified in this section."...

Section 116650 of the CHSC, states in relevant part:

"(a) If the State Board determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the State Board may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.

(b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.

(c) A citation may specify a date for elimination or correction of the condition constituting the violation.

(d) A citation may include the assessment of a penalty as specified in subdivision (e).

(e) The State Board may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation."

Section 116655 of the CHSC, states in relevant part:

(a) Whenever the State Board determines that any person has violated or is violating this chapter, or any permit, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order doing any of the following:

(1) Directing compliance forthwith.

(2) Directing compliance in accordance with a time schedule set by the State Board.

(3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

(1) That the existing plant, works, or system be repaired, altered, or added to.

(2) That purification or treatment works be installed.

(3) That the source of the water supply be changed.

(4) That no additional service connection be made to the system.

(5) That the water supply, the plant, or the system be monitored.

(6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the State Board.

California Code of Regulations (hereinafter, CCR), Title 22, Section 64423, Table 64423-A establishes the minimum routine sampling requirements, and states in relevant part:

<i>Monthly Population Served</i>	<i>Service Connections</i>	<i>Minimum Number of Samples</i>
25 to 1000	15 to 400	1 per month
1,001 to 2,500	401 to 890	2 per month
2,501 to 3,300	891 to 1,180	3 per month
3,301 to 4,100	1,181 to 1,460	4 per month
4,101 to 4,900	1,461 to 1,750	5 per month
4,901 to 5,800	1,751 to 2,100	6 per month
5,801 to 6,700	2,101 to 2,400	7 per month

<i>Monthly Population Served</i>	<i>Service Connections</i>	<i>Minimum Number of Samples</i>
6,701 to 7,600	2,401 to 2,700	2 per week
7,601 to 12,900	2,701 to 4,600	3 per week
12,901 to 17,200	4,601 to 6,100	4 per week
17,201 to 21,500	6,101 to 7,700	5 per week
21,501 to 25,000	7,701 to 8,900	6 per week
25,001 to 33,000	8,901 to 11,800	8 per week
33,001 to 41,000	11,801 to 14,600	10 per week
41,001 to 50,000	14,601 to 17,900	12 per week
50,001 to 59,000	17,901 to 21,100	15 per week

CCR, Title 22, Section 64426.1 establishes the total coliform maximum contaminant level and states in relevant part:

"(a) Results of all samples collected in a calendar month pursuant to Sections 64423, 64424, and 64425 that are not invalidated by the State Board or the laboratory shall be included in determining compliance with the total coliform MCL. Special purpose samples such as those listed in 64421(b) and samples collected by the water supplier during special investigations shall not be used to determine compliance with the total coliform MCL.

(b) A public water system is in violation of the total coliform MCL when any of the following occurs:

- (1) For a public water system which collects at least 40 samples per month, more than 5.0 percent of the samples collected during any month are total coliform-positive; or
- (2) For a public water system with collects fewer than 40 samples per month, more than one sample collected during any month is total coliform-positive; or
- (3) Any repeat sample is fecal coliform-positive or E. coli-positive; or
- (4) Any repeat sample following a fecal coliform-positive or E. coli-positive routine sample is total coliform-positive.

(c) If a public water system is not in compliance with paragraphs (b)(1) through (4), during any month in which it supplies water to the public, the water supplier shall notify the State Board by the end of the business day on which this is determined, unless the determination occurs after the State Board office is closed, in which case the supplier shall notify the State Board within 24 hours of the determination. The water supplier shall also notify the consumers served by the water system. A Tier 2 Public Notice shall be given for violations of paragraphs (b)(1) or (2), pursuant to section 64463.4. A Tier 1 Public Notice shall be given for violations of paragraphs (b)(3) or (4), pursuant to section 64463.1."

DETERMINATIONS

Based upon the above Statement of Facts and Authorities, the State Board determines that the Water System has violated the following:

1. CCR, Title 22, Section 64426.1(b)(2); Specifically, the Water System violated the total coliform MCL for May 2016 when more than one sample during the month, tested positive for total coliform bacteria.

The above violation is classified as a non-continuing violation.

DIRECTIVES

Lucky 18 on Rosamond, LLC Water System is hereby directed to take the following actions:

1. Cease and desist from failing to comply with Section 116555(a) of the California Health and Safety Code (CHSC) and Section 64426.1(b)(2) of Title 22, California Code of Regulations.
2. The Water System shall reimburse the State Board, in accordance with an invoice that shall be provided to the Water System, the costs for enforcement activities, and such reimbursement shall be made prior to September 1 (or by a different date if specified by the State Board) of the fiscal year following the fiscal year in which such costs are incurred as described in CHSC Sections 116577(a)(1-2) and 116577(b).

FURTHER ENFORCEMENT ACTIONS

Section 116270, Chapter 4, Part 12, Division 104 of the CHSC authorizes the State Board to: issue additional citations with assessment of penalties if a public water system continues to fail or correct a violation identified in a citation; take action to suspend or revoke a permit that has been issued to a public water system if the system has violated applicable law or regulations or has failed to comply with orders of the State Board; and petition the superior court to take various enforcement measures against a public water system that has failed to comply with orders of the State Board. The State Board does not waive any further enforcement action by issuance of this citation.

PARTIES BOUND

This citation shall apply to and be binding upon Lucky 18 Water System, its officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

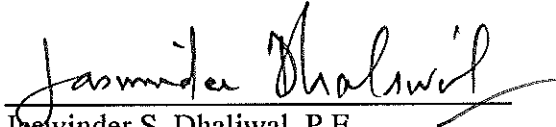
The directives of this citation are severable, and Lucky 18 Water System shall comply with each and every provision thereof, notwithstanding the effectiveness of any other provision.

CIVIL PENALTIES

Section 116650, subsections (d) and (e) of the CHSC allow for the assessment of a civil penalty for failure to comply with the requirements of the Safe Drinking Water Act. Failure to comply with any provision of this Citation may result in the State Board imposing an administrative penalty in an amount not to exceed \$1,000 (one thousand dollars) per day as of the date of violation of any provision of this Citation.

Nov. 7, 2016

Date


Jaswinder S. Dhaliwal, P.E.

Senior Sanitary Engineer

Drinking Water Field Operations Branch

Certified Mail No. 7015 1520 0000 4433 1983

ATTACHMENTS

Attachment A: Summary of Bacteriological Samples Collected from January 2015 – September 2016

CC: Kern County Dept. of Public Health, Environmental Health Services Division (w/o attachment)
Dan Sackett, sKOO'kum h2o monitoring, inc. (via email)

JSD/dc

Attachment A

Lucky 18 on Rosamond, LLC

1500571

Distribution System Freq: 1/M

<i>Sample Date</i>	<i>Time</i>	<i>Location</i>	<i>T Coli</i>	<i>E Coli</i>	<i>F Coli</i>	<i>Type</i>	<i>Cl2</i>	<i>Violation</i>	<i>Comment</i>
1/20/2015	10:47	1ROU	A	A		Routine			
2/4/2015	13:45	2ROU	A	A		Routine			
3/2/2015	10:47	3ROU	A	A		Routine			
3/9/2015	13:17	3ROU	A	A		Other			
3/9/2015	13:23	4ROU	A	A		Other			
3/9/2015	13:28	Pressure Tank	A	A		Other			
3/9/2015	13:32	Storage Tank	A	A		Other			
3/9/2015	13:38	1ROU	A	A		Other			
3/9/2015	13:46	2ROU	A	A		Other			
3/9/2015	13:57	5ROU	A	A		Other			
4/20/2015	13:17	4ROU	A	A		Routine			
5/20/2015	11:09	5ROU	A	A		Routine			
5/27/2015	13:14	2ROU	A	A		Other			
5/27/2015	13:20	1ROU	A	A		Other			
5/27/2015	13:26	3ROU	A	A		Other			
5/27/2015	13:36	4ROU	A	A		Other			
5/27/2015	13:41	5ROU	A	A		Other			
6/17/2015	12:35	1ROU	A	A		Routine			
7/1/2015	10:59	2ROU	A	A		Routine			
8/4/2015	14:09	3ROU	A	A		Routine			
8/6/2015	9:01	1ROU	A	A		Other			
8/6/2015	9:30	2ROU	A	A		Other			
8/6/2015	9:36	3ROU	A	A		Other			
8/6/2015	9:39	STORAGE TANK	A	A		Other			
9/1/2015	9:52	4ROU	A	A		Routine			
10/20/2015	13:59	5ROU	A	A		Routine			
11/3/2015	11:20	1ROU	A	A		Routine			
12/17/2015	9:52	2ROU	A	A		Routine			
1/5/2016	10:26	3ROU	A	A		Routine			
2/2/2016	14:16	System	A	A		Routine			
3/1/2016	12:42	1ROU	A	A		Routine			
4/5/2016	13:35	4ROU	A	A		Routine			
5/17/2016	11:06	5ROU	P	A		Routine			
5/19/2016	10:28	1REP2	P	A		Repeat		MCL	Cit. #03-19-16C-050 issued.
5/19/2016	10:32	1REP1	A	A		Repeat			
5/19/2016	10:34	1REP3	A	A		Repeat			

<i>Sample Date</i>	<i>Time</i>	<i>Location</i>	<i>T Coli</i>	<i>E Coli</i>	<i>F Coli</i>	<i>Type</i>	<i>Cl2</i>	<i>Violation</i>	<i>Comment</i>
5/19/2016	10:46	STORAGE TANK	P	A		Other			
5/24/2016	11:09	3ROU	A	A		Routine			
5/24/2016	11:16	4ROU	A	A		Routine			
5/24/2016	11:19	1ROU	A	A		Routine			
5/24/2016	11:24	2ROU	A	A		Routine			
5/24/2016	11:28	5ROU	A	A		Routine			
6/7/2016	13:28	1ROU	A	A		Routine			
6/7/2016	13:32	5ROU	A	A		Routine			
6/7/2016	13:38	2ROU	A	A		Routine			
6/7/2016	13:43	3ROU	A	A		Routine			
6/7/2016	13:47	4ROU	A	A		Routine			
7/5/2016	13:54	2ROU	A	A		Routine			
8/2/2016	15:57	3ROU	A	A		Routine			
9/13/2016	13:26	4ROU	A	A		Routine			

Lucky 18 on Rosamond, LLC

1500571

Source Monitoring Freq:

<i>Sample Date</i>	<i>Time</i>	<i>Source</i>	<i>T Coli</i>	<i>E Coli</i>	<i>F Coli</i>	<i>Violation</i>	<i>Comment</i>
5/19/2016	10:58	WELL #2	P	A			GWR & Repeat TCR
